

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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YURMAN STUDIO, INC. and YURMAN
DESIGN, INC.,

Plaintiffs/Counter-Defendants,

- against -

ELENA CASTANEDA and EJEWELER LLC
d/b/a OVERSTOCKJEWELER.COM,

Defendants/Counter-Plaintiffs.
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Civil Action No. 07-1241 (SAS)(HP)
(Action No. 1)

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CARTIER, a division of RICHEMONT NORTH
AMERICA, INC., CARTIER INTERNATIONAL,
N.V., CARTIER CREATION STUDIO, S.A., VAN
CLEEF & ARPELS S.A., VAN CLEEF &
ARPELS, INC., VAN CLEEF & ARPELS
DISTRIBUTION, INC., GUCCI AMERICA, INC.,
and BULGARI S.p.A.,

Plaintiffs,

- against -

ELENA CASTANEDA and EJEWELER LLC
d/b/a OVERSTOCKJEWELER.COM,

Defendants.
----- X

Civil Action No. 07-7862 (SAS)(HP)
(Action No. 2)

**DECLARATION OF LOUIS S. EDERER, ESQ. IN OPPOSITION TO
DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

LOUIS S. EDERER, pursuant to 28 U.S.C. § 1746, declares under penalty of perjury that
the following is true and correct to the best of his knowledge:

1. I am a member of the firm of Arnold & Porter LLP, counsel for plaintiffs Yurman
Studio, Inc., Yurman Design, Inc., Cartier, a division of Richemont North America, Inc., Cartier

International, N.V., Cartier Creation Studio, S.A., Van Cleef & Arpels S.A., Van Cleef & Arpels, Inc., Van Cleef & Arpels Distribution, Inc., Gucci America, Inc. and Bulgari S.p.A. (collectively “Plaintiffs”). I make this declaration in opposition to Defendants’ motion for partial summary judgment.

2. Attached hereto as Exhibit A are pertinent excerpts from the transcripts of the deposition of Defendant Elena Castaneda taken on February 7-8, 2008.

3. Attached hereto as Exhibit B are pertinent excerpts from the transcript of the deposition of Alice Limantara taken on April 22, 2008.

4. Attached hereto as Exhibit C are pertinent excerpts from the transcripts of the April 30, 2008 deposition of Hiro Dasani and the March 24, 2008 deposition of Catherine LaCaze.

5. Attached hereto as Exhibit D are (i) a letter from the United States Copyright Office to Yurman Studio, Inc., dated January 26, 2007, and (ii) a letter from the United States Copyright Office to Gucci America, Inc., dated March 14, 2007.

6. Attached hereto as Exhibit E are printouts from the Overstockjeweler.com website for the following products:

- (i) Item No. IND-BL505 - “Cartier-esque Inspired 14K Gold Love Screw Motif Bangle Bracelet”;
- (ii) Item No. ZF-B128G - “Inspired by David Yurman 18K Gold Circle Clasp Double Cable Bangle Bracelet”;
- (iii) Item No. Z-R296G - “David Yurman Inspired sterling Silver & 18K Gold Carved Cable Ring”;
- (iv) Item No. BSB-E-046 - “David Yurman Inspired Sterling Silver Thoroughbred Cable Earrings with Omega Clips”;
- (v) Item No. KA-E-992UE8610N-15 - “Inspired by Tiffany 14K Yellow Gold Round Cut Diamond Graduated Bubble Earrings”;

- (vi) Item No. SILR-11 - "David Yurman Inspired Sterling Silver Genuine Diamond 14K Gold Square Tip Unisex Cable Ring";
- (vii) Item No. KA-EEF3001 - "Inspired by Bulgari Diamond and 14K Gold Half Double-Hoop Earrings";
- (viii) Item No. KA-E-UE8597 - "Cartier Inspired Diamond and 14K Yellow Gold Twist Half Hoop Earrings";
- (ix) Item No. PK-ST-SR1001 - "David Yurman Inspired Copy Thoroughbred Cable Ring";
- (x) Item No. af-2148 - "Bulgari Inspired Two Row Spiga Collection Wrap Pave Diamond CZ Sterling Silver Ring";
- (xi) Item No. r-bzero1 - "Bulgari Bzero1 Inspired Sterling Silver Ring with Pave CZ Diamonds"; and
- (xii) Item No. SSTR-92-20LNK - "Gucci Inspired Sterling Silver 20" Square Link Men's Chain Necklace".

7. Attached hereto as Exhibit F are (i) a printout from www.davidyurman.com depicting a "cross pendant in sterling silver with 14-karat yellow gold center accent on a petite box chain"; and (ii) a Cartier "price list" which depicts prices for certain of the authentic Cartier products allegedly being knocked off by Defendants.

8. Attached hereto as Exhibit G are the following:

- (i) Printout of the Overstockjeweler.com "About Us" page;
- (ii) Printout of the results page for search for the word "knockoff" on Overstockjeweler.com;
- (iii) Item No. BSB-Palb - "David Yurman Inspired Knockoff Pendant Enhancer";
- (iv) Item No. SF-91663201 - "Cartier-esque Inspired Pasha Quilted Turquoise Sterling Silver Circle Pendant";
- (v) Item No. SC-HE56177 - "Gucci-esque Inspired Jewelry Collection Inspired Equestrian Sterling Silver Bracelet";
- (vi) Item No. RCH-RZ2894 - "David Yurman Albion Inspired Replica Cushion Cut Double Cable Ring";

- (vii) Printout of the Overstockjeweler.com “David Yurman Inspired Rings” page, which states “[o]ur jewelry is custom made and very rare and hard to find . . .”;
- (viii) Printout of the results page for a Google search for the words “Overstock Jeweler”, which identifies the Overstock Jeweler website as a “Sponsored Link”; and
- (ix) MSN Keyword Performance Report.


9. Attached hereto as Exhibit H is a letter from Louis S. Ederer of Arnold & Porter LLP to Thomas M. Saunders of Brown Rudnick Berlack Israels LLP, dated September 13, 2005.

10. Attached hereto as Exhibit I is Defendant Castaneda and Ejeweler’s Responses to Plaintiffs’ Third Set of Interrogatories, dated April 25, 2008.

11. I am aware that until recently, Defendants’ website featured a detailed “history” of each of the Plaintiffs’ brands and companies as part of its promotion of its “Designer Inspired Jewelry” collection. These “histories” were presented in a manner similar to that which might appear on websites actually sponsored or approved by Plaintiffs, or authorized to sell Plaintiffs’ authentic products. In connection with this motion, we have searched for copies of these pages but have been unable to locate them.

12. Although it is Plaintiff Bulgari’s firm position that, as indicated in our memorandum of law, its collection copyright registrations cover the jewelry designs at issue, this firm has recently filed, on Bulgari’s behalf, supplemental applications for the Bulgari collection copyright registrations at issue, to clarify Bulgari’s intention that these registrations cover the jewelry designs depicted in the catalogs submitted as deposit material.

DECLARED UNDER PENALTY OF PERJURY THIS 3rd DAY OF JULY, 2008.



Louis S. Ederer